

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Recommendations of the Independent Panel)	
Reviewing the Impact of Hurricane Katrina on)	EB Docket No. 06-119
Communications Networks)	
)	

Comments of Gorham, Gold, Greenwich and Associates, LLC

Gorham, Gold, Greenwich and Associates, LLC, (“GGGA”) a management consultancy, pursuant to the Commission’s Public Notice released July 26, 2006 (DA 06-1524) hereby respectfully submits its comments in the above captioned matter.

While the Commission seeks comments on the Independent Panels recommendations in four areas, asking what actions it can take, GGGA limits its comments to one area raised by the Commission, namely “pre-positioning the communications industry and the government for disasters in order to achieve greater network reliability and resiliency.”¹ Our expertise as a consultant to utilities (including domestic and international telecommunications carriers), as well as to state and federal agencies, lies in strategic and operations planning. Our thirty years of experience as trusted advisors to regulators, whose role is to oversee the performance of the businesses supplying services to the broad public constituency and users, has given us

¹ Notice of Proposed Rulemaking, EB 06-119 (“NPRM”) at 2 - 3

perspectives on emergency preparedness and continuity planning which are at the core of “pre-positioning” strategies.

GGGA commends the Independent Panel on its efforts to reach all manner of expertise from across the country as it pursued its charter² and conducted its work for the Commission. The Independent Panel went to great lengths to obtain the benefit of people, agencies, and forces with direct and consequential experience with Hurricane Katrina and her aftermath. The Independent Panel further brought expertise from myriad groups with policy, scientific, and business credentials that lend significant credence to its recommendations.

As an initial matter, the Independent Panel views pre-positioning for disasters in a very broad context, involving matters of carriers’ preparedness plans which are fully developed and ready to launch, public safety, FCC regulatory requirements, and official monitoring.³ GGGA recommends the Commission separately consider the matter of industry preparedness from the other “pre-positioning” concerns developed by the Independent Panel. We raise this in recognition that the first concern must be the telecommunications industry’s carriers’ preparedness to respond to disasters as they occur and restore services that will further the local and regional first responder capability. Close behind that in priority is the restoration of services to the general response effort, followed by the restoration of service to business and individual users. As noted in official reports of the Katrina storms;

² The FCC’s Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks, “Charter” <http://www.fcc.gov/eb/hkip/HKIPCharter.pdf>

³ Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks, *Report and Recommendations to the Federal Communications Commission*, Pp 31-34 (Independent Panel Report).

The government's ability to communicate depends upon the viability of the commercial network's infrastructure. Ninety percent of communications assets are privately owned and operated.⁴

The response plans developed by telecommunications carriers are foundational to the response effort. The quality, efficacy, operability, and comprehensiveness of these plans will determine the extent to which natural and human-caused catastrophes are dealt with appropriately.

The Commission would be ill-advised to formulate a detailed set of requirements for carriers to address in their emergency preparedness checklists, service restoration plans, and business continuity plans for several reasons: (1) Telecommunications carriers do not fit one mold, as they provide wireless and wireline services; (2) they are local, state, interstate, and international carriers; (3) they are facilities-based and resellers of services; and (4) they are operating units and entities of mega-corporations and small enterprises. Propounded standards, guidelines, best practices that would apply to all would go well beyond the Commission's duties and likely, its function and authority. These are matters best left to the carriers themselves in their own industry groups, consortia, and interest groups. Their executives and senior managers are responsible and should be accountable, for the company's preparedness.

The proper role of the Commission would be to set preparedness expectations that telecommunications carriers, as well as other regulated utilities including electric, gas, water, and transportation services, would act upon for the markets they serve. The Commission can and should encourage each carrier to develop preparedness plans that promote their ability to meet

⁴*A Failure of Initiative* Final Report of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina at 166.

first responder needs and to restore services to its customers. To identify and develop the context of these expectations, the Commission should promote its vision of preparedness from a national level and urge the regulators of telecommunications services and carriers in the states to convene forums that allow industry participants to collaborate on state-specific approaches to fulfilling the Commission's vision. Together, the state regulators and industry participants can focus on the relevant emergencies to consider and the response intervals to be expected. Working together, the state regulators and industry participants should devise more closely-tailored continuity plans that are appropriate for the types of service providers, their served markets, and the types of services they provide. Preparedness principles can be conceived on a broad basis, but preparedness planning must be detailed at the local level to ensure the plans can be put into place according to the immediate needs defined by the natural disaster, human-caused catastrophe, or technology-wrought failure of systems.

In its brief selection of checklist elements for carrier continuity plans,⁵ the Independent Panel's recommendations are far too limited and hopefully, not misleading in their brevity. An effective business continuity plan would embrace far more aspects of the contingencies and business operations requirements that a telecommunications carrier or other business would reasonably address. The 9-11 Commission looked into the private sector as well as examining federal and state agencies for determining preparedness, and asserted: "Preparedness in the private sector and public sector for rescue, restart, and recovery of operations should include (1) a plan for evacuation, (2) adequate communications capabilities, and (3) a plan for continuity of

⁵ Independent Panel Report at 31

operations.”⁶ The 9-11 Commission went further and asked the American National Standards Institute (“ANSI”) to develop a “consensus on ‘National Standard for Preparedness’ for the private sector”⁷ and made its recommendation to the President and to Congress to specifically endorse the ANSI standards for the private sector.⁸

GGGA has two specific concerns regarding the Independent Panel’s recommendation that the Network Reliability and Interoperability Council (“NRIC”) “best practices” be a basis for the Commission’s “readiness checklist”. First, NRIC VII’s charter expired at the end of calendar year 2005 and NRIC VIII has not been chartered. It is unclear whether the Independent Panel’s recommendations have been accepted by NRIC as work to be done in its next term, as it obviously could not consider the work product of the Independent Panel. While testifying for the Independent Panel, Mr. Stogoski (Director of Homeland Security for Sprint-Nextel and the Chair of the Homeland Security Infrastructure Focus Group for NRIX VII) advised that Hurricane Katrina occurred near the very end of the NRIC VII term and that work it had been doing in the areas of preparedness practices was nearly complete as his group was preparing its final report. Stogoski stated:

... so we were just completing our work as we were preparing the report for delivery in December. We were not able to come up with and really specify, identify specific new best practices that we can incorporate there. There just wasn’t enough time.⁹

⁶ The 9-11 Commission Report *Final Report of the National Commission on Terrorist Attacks upon the United States* at 398

⁷ Id

⁸ “Based on the existing American National Standard on Disaster/Emergency Management and Business Continuity Programs (NFPA 1600), the proposed National Preparedness Standard establishes a common set of criteria and terminology for preparedness, disaster management, emergency management, and business continuity programs” Id.

⁹ Meeting of the Federal Communications Commission’s Independent Panel Reviewing The Impact Of Hurricane Katrina On Communications Networks, April 18, 2006 Tr. At 95

Second, NRIC makes it very clear that use of its best practices and any carrier's implementation of its best practices are decisions made by the carriers and its work products do not actually carry any force. This approach would transfer the burden of interpreting, urging adoption, and keeping current the best practices to the Commission. This is clearly an unfair burden.

Implementation of NRIC Best Practices is voluntary. The implementation decision is left with the responsible organization and is to be made by individuals with sufficient competence to understand them. Mandated implementation of these Best Practices is not consistent with their intent.¹⁰

The Commission appropriately wonders whether actions it takes, recommendations it propounds, or guidelines it adapts as this matter continues should be applied to "all types of natural disasters . . . as well as other types of incidents"¹¹ GGGA believes that the parceling of recommendations for telecommunications carriers for their consideration or adoption, according to the type of natural or other disaster scenario, would be harmful to the otherwise-beneficial approach it has taken. As it is imprudent to consider all carriers alike for purposes of disaster planning, it is equally wrong to list all types of disasters and have carriers choose which ones to be prepared for responsive actions. No one would advocate the pre-positioning steps that Gulf and Eastern seaboard-sited telecommunications carriers incorporate for hurricanes, tropical storms, tidal surges and the like be incorporated into the planning processes for carriers operating in land-locked states. Also, those carriers that operate in only a small number of urban centers with low population density would not reasonably be expected to have detailed plans for

¹⁰ <http://www.nric.org>

¹¹ Public Notice DA 06-1254 at 1

evacuations of essential employees from skyscrapers, or ensuring vital, technical staff members do not attempt to use mass transit rail systems to reach critical reporting stations. Here again, our suggested approach of state commission convened collaborative efforts would allow open discussion of what types of incidents are within the plans of telecommunications carriers (and other utility service providers) as well as the decisions of what nature of incidents should be considered in preparedness plans which would be left to the executives and managers of those businesses.

GGGA strongly suggests a modification to the Independent Panel's recommendation for "conducting exercises to evaluate these plans and train personnel."¹² Our experience in managing tests and exercises of preparedness plans requires an additional focus on applying the lessons learned from each of these activities. Executives of the companies must require the company's preparedness planning process to draw on the errors of omission and errors of commission to refine and improve the planning documents and the plan for executing response to disasters. Without a closing "loop" that brings that feedback through the plan development cycle, the opportunity to learn from the experiences will be lost: these faults become avoidable problems for future tests, and for future execution of the company preparedness plan.

Respectfully submitted,



Aaron J. Mann
Counsel for Gorham, Gold, Greenwich and
Associates, LLC
BLACKWELL SANDERS PEPER MARTIN, LLP
4801 Main St., Suite 1000
Kansas City, Missouri 64112

¹² Independent Panel Report at 31

Tel: 816.983.8338
Fax: 816 983.8080

Gregory Loyd Mann
Managing Vice President
Gorham, Gold, Greenwich & Associates LLC
Post Office Box 23626
Overland Park, Kansas 66283-0626
Tel. 913.814.9820
Fax 913.814.9083

Timothy Connolly
Vice President
Gorham, Gold, Greenwich & Associates LLC
Post Office Box 23626
Overland Park, Kansas 66283-0626
Tel. 913.814.9820
Fax 913.814.9083

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